

KEVIN T. MULHEARN, P.C.
Kevin T. Mulhearn, Esq.
60 Dutch Hill Road, Suite 8
Orangeburg, NY 10962
Tel: (845)398-0361
Fax: (845)398-3836
Email: kmulhearn@ktmlaw.net

*Attorneys for Plaintiffs, JAMES ZIMMERMAN,
PHILIP CULHANE, DAVID HILTBRAND,
WILLIAM JACKSON, GEORGE ZAROU,
JOHN JOSEPH PAGGIOLI, JOHN DOE II, ”
“JOHN DOE III,” and “JOHN DOE IV”*

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JAMES ZIMMERMAN, PHILIP CULHANE,
DAVID HILTBRAND, WILLIAM JACKSON,
GEORGE ZAROU, JOHN JOSEPH PAGGIOLI,
“JOHN DOE II,” “JOHN DOE III,” and
“JOHN DOE IV,”

Plaintiffs,

- against -

POLY PREP COUNTRY DAY SCHOOL, WILLIAM
M. WILLIAMS, DAVID B. HARMAN, AND
VARIOUS MEMBERS OF THE POLY PREP BOARD
OF TRUSTEES, WHOSE NAMES ARE CURRENTLY
UNKNOWN AND THUS DESIGNATED AS
“JAMES DOE I-XXX,”

Defendants.

-----X

***PLAINTIFFS’ NOTICE OF
MOTION FOR SANCTIONS
AGAINST DEFENDANTS
FOR SPOILIATION AND/OR
FRAUD UPON THE COURT,
OR, IN THE ALTERNATIVE,
FOR LEAVE TO FILE A
SECOND AMENDED
COMPLAINT***

No. 09 Civ. 4586 (FB)(CLP)

Electronically Filed

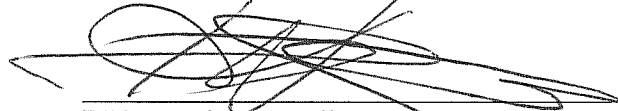
PLEASE TAKE NOTICE that upon Plaintiffs' Memorandum of Law, dated July 26, 2010, and the Declaration of Kevin T. Mulhearn, dated July 26, 2010, and the exhibits attached thereto, each of which were filed "Under Seal" with this Court on July 27, 2010, Plaintiffs, JAMES ZIMMERMAN, PHILIP CULHANE, DAVID HILTBRAND, WILLIAM JACKSON, GEORGE ZAROU, JOHN JOSEPH PAGGIOLI, JOHN DOE II," "JOHN DOE III," and "JOHN DOE IV," will move this Court, before the Hon. Cheryl L. Pollak, in Courtroom 13B-South, located at 225 Cadman Plaza East, Brooklyn, New York 11201, at a time and place to be set by the Court, for an Order, imposing sanctions against Defendants, POLY PREP COUNTRY DAY SCHOOL, WILLIAM M. WILLIAMS, DAVID B. HARMAN, AND VARIOUS MEMBERS OF THE POLY PREP BOARD OF TRUSTEES, WHOSE NAMES ARE CURRENTLY UNKNOWN AND THUS DESIGNATED AS "JAMES DOE I-XXX," for spoliation and/or fraud upon the Court, pursuant to FRCP 37 and the Court's inherent authority, which shall permit Plaintiffs to take additional depositions and related discovery and mandate Defendants to pay Plaintiffs' costs and expenses, including reasonable attorneys' fees and transcription fees, for all such additional and further depositions and related discovery, as well as Plaintiffs' attorneys' fees incurred in the preparation of this motion, or in the alternative, pursuant to FRCP 15(a), to grant Plaintiffs leave to file a Second Amended Complaint in this action, and for any other, further, or different relief as to which this Honorable Court may seem just, proper, or necessary.

PLEASE TAKE FURTHER NOTICE that, pursuant to the briefing schedule agreed to by the parties, Defendants' response in opposition to Plaintiffs' pending motion shall be served by August 11, 2010, and Plaintiffs' reply papers, if any, shall be served by August 17, 2010.

Dated: July 28, 2010
Orangeburg, New York

Respectfully submitted,

KEVIN T. MULHEARN, P.C.

A handwritten signature in black ink, appearing to read 'Kevin T. Mulhearn', is written over a horizontal line.

BY: Kevin T. Mulhearn, Esq. (KM2301)

Attorneys for Plaintiffs
60 Dutch Hill Road, Suite 8
Orangeburg, NY 10962
Tel: (845)398-0361
Fax: (845)398-3836
Email: kmulhearn@ktmlaw.net